IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.926 OF 2006

Mr. Laxmi Narayan Sharma ..Applicant

V/s

State of Maharashtra ..Respondents.

Mr. V.T. Tulpule with Mr. A.I.I. Patel for the applicant.

Ms. Rajeshree M. Gadhvi,APP for the State.

CORAM: V.M. KANADE, J.

DATE: 8th March, 2006

P.C.:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicant seeks anticipatory bail since he has an apprehension that he is likely to be arrested in connection with C.R. No.28 of 2006 registered by Azad Maidan Police Station for the offence punishable under section 420, 506, 120(B) of the Indian Penal Code.

3. It is alleged by the complainant that the applicant who is working in the Canteen of the Bombay Hospital had assured to give him a job after he had failed in the MPSC Examination. It is alleged that the applicant had told him that he should meet one Mr.

Shinde who was a P.A.to Minister and had represented him that if certain amounts were paid, the applicant could clear the MPSC Examination in the next attempt. It is alleged that on this representation, the applicant was introduced to Mr. Shinde and one Mr. Shewade and certain amounts were paid. It is alleged that the applicant paid in all Rs 4,25,000/-. Thereafter, however, the applicant was not successful in the examination which was held by the MPSC. He, therefore, demanded the return of the monies which were paid to the applicant. It is alleged that the applicant returned Rs 75000/- to the complainant and promised to pay balance amount in instalments.

4. It is submitted by the learned Counsel for the applicant that the complaint was lodged after a lapse of almost 5 to 6 years. It is submitted that the FIR had not been filed within time. It is submitted that the only role attributed to the applicant was that the applicant had given assurance to the complainant of giving him a job and the applicant having failed in his efforts, a false complaint has been lodged against him. He submitted that the applicant had only introduced the complainant to the said Shinde and beyond that he had nothing to do in the entire transaction. He submitted that, therefore, this was a

fit case for grant of an anticipatory bail as no useful purpose would be served in interrogating the applicant. He submitted that the custodial interrogation of the applicant was not required in the present case.

5. The learned APP, on the other hand, submitted that the applicant was a part of larger conspiracy in the MPSC Scam which had rocked the city in the year 2000-2001. She submitted that the custodial interrogation of the applicant was necessary.

6. There may be some substance in the submissions made by the learned Counsel for the applicant regarding the delay in filing the FIR against the present applicant, yet the facts remains that the provisions of Section 120-B have also been made applicable in the present case and, therefore, this is not a fit case for grant of anticipatory bail. Hence, the application for anticipatory bail is rejected.

7. It is clarified that merely because the application for anticipatory bail is rejected it should not be construed to mean that the observations made by this Court while rejecting the application are expression of opinion on merits of the case. If an

application for regular bail is filed by the applicant, the same shall be considered on its own merits and in accordance with law. At this stage, the learned Counsel for the applicant seeks seven days time for the applicant to surrender to the Police or the competent court. Seven days' time is granted to the applicant to surrender.

8. With the above directions, the application is disposed of.

V.M. KANADE, J.